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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,250	01/03/2002	Kevin D. Kroupa	A3648.0012/P333-A	4615

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EXAMINER

WALTON, GEORGE L

ART UNIT	PAPER NUMBER
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3753

12

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,250

Applicant(s)

Kroupa et al

Examiner

George L. Walton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 3, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26 and 29-50 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26 and 29-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 26 and 29-50 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26, 29-32, and 34-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Brumm. The piston valve unit is readable on element 74, 110 or 130. The piston actuator is readable on elements 34, 40, and 46, and the handle is readable on element 40. The first valve is readable on element 76, 96 or 100 and the second valve is readable on element 74, 110, or 130. The flow rate ranges, the timing of the flow rate to be dispensed and actuator rotation ranges are inherent in view of the low capacity or throttled flows through the above first and second valves. Note that the valves move in the same axial directions. Element 91 or 108 is readable on the pressurization orifice. The piston valve unit clearly shows a cup shape. Also it is inherent that the handle can be released and re-gripped as recited in claim 44. The lower cup seat and valve element are readable on elements 66,

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68, 72 and 74. The biasing spring is readable on element 84 or 132. The patent to Brumm teaches the flow being oxygen.

Claims 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brumm in view of Bathe. The above claim is readable on the patent to Brumm with the single exception of utilizing a specific type of gas, such as nitrous oxide. The patent to Bathe teaches the above exception. In view of the teaching of Bathe, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to provide the nitrous oxide gas for the oxygen gas of Brumm, if desired. Note in column 1, lines 11-15 that gas flow can be of some other gas containing oxygen. This supports the above teaching. Therefore, such teaching provides no unobvious or unexpected result.

Claims 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bathe et al in view of Brumm. The above claims are readable on the patent to Bathe et al with the single exception of having a specific type of manual operated cylinder valve, i.e., a dual path surge prevention valve device utilizing an oxygen type gas for a gas cylinder. The patent to Brumm teaches the above exception. In view of the teaching Brumm, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to replace valve 12 of Bathe et al with the dual valving device of Brumm, as taught by element 10 (see figures 1-4), if desired. Such teaching provides no unobvious or unexpected result.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's

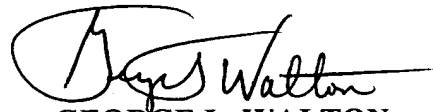
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disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George L. Walton whose telephone number is (703) 308-2596. Upon receipt of this action, the applicant and/or attorney is invited to contact the examiner to discuss the above action. My normal business hours are between 8:30 AM to 5:00 PM. Should any attempt after one business day to reach the examiner by telephone is unsuccessful, you may contact the supervisor, Mr. Mikado Buiz on (703) 308-0871. My fax number is (703) 308-7765.

Any inquiry of a general nature or relating to the status of this application and any pre-examination proceedings on this application should be directed to the receptionist whose telephone number is (703) 308-0861.

GLW
June 15, 2003


GEORGE L. WALTON
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER - 3700
ART UNIT - 3753